

**REMARKS**

The present amendment is submitted in response to the Office Action dated August 23, 2002, which set a three-month period for response, making this amendment due by November 23, 2002.

Claims 1-10 are pending in this application.

In the Office Action, claims 7 and 8 were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains to make and/or use the invention. Claims 7, 8, 9 and 10 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1 through 8 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,379,978 to Patel et al. Claims 1, 9, and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,897,089 to Lancaster et al.

Turning first to the rejection of claim 7 under both first and second paragraphs of Section 112, the Applicant has amended claim 7 to more clearly define the structural relationship of the holder in relation to the carriage. The Applicants respectfully direct the Examiner's attention to the specification on page 6, lines 3-15 and page 14, lines 9-21, where the features of amended claim 7 are specifically disclosed. Figures 3-5 illustrate the features of claim 7.

As set forth in the specification, the path of raising of the holder is oriented upwards in relation to the carriage and contrary to the pull-out direction of the carriage. As a result, when the carriage is pulled out, the holder exhibits no

travel in the carriage pulled-out direction OR a shorter travel in the carriage pull-out direction than the carriage. This has the advantage that the pull-out distance of the carriage can be shortened. That is, the carriage and the holder project out less far from their installation space. The shortened pull-out distance is advantageous because the holder device projects out less far into the passenger space when the carriage is pulled out. An additional advantage is that the shorter pull-out distance means that the lever arm is shortened, for example, in the even of unintentional leaning on the pulled-out carriage. This reduces the risk of the carriage breaking.

Amended claim 7 now recites more clearly that the path of raising the holder is oriented upwards in relation to the carriage and contrary to a pulled-out direction of said carrier, wherein on pulling out of the carriage, the holder travels no distance in the pulled-out direction of the carriage. The Applicants have added new claim 11, which includes the limitation of original claim 7, that is, that the path of raising the holder is oriented upwards in relation to the carriage and contrary to a pulled-out direction of the carrier, wherein on pulling out the carriage, the holder travels a shorter distance in the pulled-out direction of the carriage than the carriage travels. Again, this limitation is disclosed in the noted sections of the specification on pages 6 and 14.

The Applicant respectfully submits that the amendment to claim 7 and the addition of new claim 11 obviates the rejections of claim 7 under Section 112, first and second paragraphs.

Regarding the rejection of claim 9 under Section 112, second paragraph, the Applicants have amended claim 9 to provide proper antecedent basis for "the holder."

Looking now at the substantive rejection of the claims as anticipated by the Patel or Lancaster patents, the Applicants respectfully disagree that these references disclose the subject matter of the present invention as defined in claims 1-10.

The gravity locking device 40 of the holding device for a beverage container, according to the present invention, is described in the specification on page 4, line 15 through page 5, line 7, and on page 15, line 1 through page 16, line 2. As shown in Fig. 6, for example, the gravity locking device 40 functions as follows: when the arm rest 20, and with it, the holding device 10, including the housing 12 and their common parts, are folded up by 90° or more, gravity moves the bolt 42 in the direction of the arrow 48. The bolt 42 projects out from an upper face of the carriage 14 and engages in an opening 50 in an upper face of the housing 12. The displacement of the bolt 42 is apparent if one rotates Fig. 6 90° upwardly in the direction of the arrow, that is, if one turns Fig. 6 upside down, so that the page numbers 6/7 are located on the bottom of the page. When Fig. 6 is rotated in this manner, it can be seen that the bolt 42 is moved by gravity in the direction of the arrow to project downward, and in this manner, is locked through the carriage into the housing 12.

Neither Patel et al nor Lancaster et al disclose a device with the above-described gravity locking device of the present invention. The carriage 24 of

Patel et al is extensible from the housing in each spatial position of the holding device 10. It is not disclosed in Patel et al what would prevent the carriage from being extensible upward and perpendicularly from the housing 12. The components in Patel that are designated in the Office Action as a "gravity locking device" operates as a beverage holder 32 with the placement opening 38 and its flap or folding means 54. It is not disclose that these parts of the carriage can be locked in dependence on the spatial position in the housing 12.

Also, the slide plate 48 of Lancaster et al is extensible from the housing in each position, that is, also upwardly perpendicular. The spring 46, designated by the Examiner as a gravity locking device, cooperates with the ratchet 96. With this component, the size of the placement opening for a beverage container, surrounded by the arms 22, 24, can be adjusted (see column 7, line 19 and on). Lancaster et al fail to disclose that the spring 46, as a "gravity locking device", can lock the carriage 48 in the housing 20, so that the slider plate 48 cannot be pulled out from the housing 20.

For the above reasons, the Applicants respectfully submit that independent claim 1, as well as dependent claims 2-10, of the present application define a patentably distinct set of features neither disclosed nor suggested by the cited references to Patel et al or Lancaster et al. The Applicants further request withdrawal of the rejections under 35 U.S.C. 102 and reconsideration of the application as herein amended.

It is noted that the claimed priority date for this application is July 31, 2000. As will be seen from the priority document on file, the correct priority date is July 29, 2000. It is requested that the claimed priority date be amended to read July 29, 2000 so that it is consistent with the priority document. A declaration signed by all of the inventors requesting amendment of the priority document is attached hereto.

In light of the foregoing arguments in support of patentability, the Applicants respectfully submit that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



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